


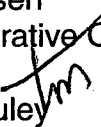


County of Los Angeles  
**CHIEF ADMINISTRATIVE OFFICE**

713 KENNETH HAHN HALL OF ADMINISTRATION • LOS ANGELES, CALIFORNIA 90012  
(213) 974-1101  
<http://cao.co.la.ca.us>

DAVID E. JANSSEN  
Chief Administrative Officer

January 31, 2005

To: Supervisor Gloria Molina, Chair  
Supervisor Yvonne B. Burke  
Supervisor Zev Yaroslavsky  
Supervisor Don Knabe  
Supervisor Michael D. Antonovich  
From:   
David E. Janssen  
Chief Administrative Officer  
  
J. Tyler McCauley  
Auditor-Controller

Board of Supervisors  
GLORIA MOLINA  
First District

YVONNE B. BURKE  
Second District

ZEV YAROSLAVSKY  
Third District

DON KNABE  
Fourth District

MICHAEL D. ANTONOVICH  
Fifth District

**REPORT ON COUNTY OF LOS ANGELES SERVICE CONNECTED DISABILITY  
RETIREMENTS AND METHODOLOGY AND TIMELINE FOR EVALUATING COUNTY  
OF LOS ANGELES SERVICE CONNECTED DISABILITY RETIREMENTS**

On January 4, 2005, by motion of Supervisor Gloria Molina, your Board instructed the Chief Administrative Office (CAO), the Auditor-Controller (Auditor) and Los Angeles County Employees' Retirement Association (LACERA) to provide a timeline and methodology for compiling a case-by-case investigation of all active recipients of County of Los Angeles Service Connected Disability Retirement (SCDR) benefits to identify whether or not any SCDR fraud or abuse exists. This report contains the methodology and timeline that will be applied to begin an evaluation of active County SCDRs. Attachment A provides LACERA data concerning the number of County of Los Angeles (County) disability retirees and related expense.

**BACKGROUND**

The County's retirement system is governed by the County Employees Retirement Law of 1937 (1937 Act). Applications for County SCDRs are processed pursuant to LACERA policies and procedures, subject to the eligibility standards mandated by the 1937 Act. All County SCDR applications must be approved by the LACERA Board of Retirement (Retirement Board). The Retirement Board is responsible for managing the retirement association's daily operations and the SCDR process. The LACERA Board of Investments manages LACERA's investment portfolio.

Two primary issues must be evaluated by LACERA to determine an applicant's eligibility to receive a SCDR:

1. The applicant must be permanently incapacitated from the performance of the applicant's work.
2. The applicant's employment must be an element that "contributes substantially" to the applicant's incapacity. State of California (California) case law has interpreted the term "contributes substantially" to mean even a small or very minor degree of employment causation.

**SCDR Application Process:**

All County SCDR applications are referred to a LACERA Disability Retirement Specialist who must conduct an investigation. The elements of the investigation include:

1. Review of the applicant's:
  - a. medical records
  - b. Department of Motor Vehicle records
  - c. personnel records
    - 1) payroll documents
    - 2) performance evaluations
    - 3) grievance filings
    - 4) internal investigations
  - d. workers' compensation files
    - 1) benefit awards
    - 2) claims filed
    - 3) work restrictions
2. Unless the applicant is physically unable to communicate, all applicants are interviewed regarding:
  - a. nature of disability
  - b. physician's statement of diagnosis and prognosis
  - c. summary of workers' compensation claims
  - d. medical history
  - e. occupational history and physical requirements
  - f. light or modified duty assignments
  - g. non-work related functions
  - h. witness statements

3. Interview of all pertinent witnesses.
4. Physical examination of applicant by at least one LACERA panel physician.

After completion of steps 1 through 4 above, the Disability Retirement Specialist submits a "Disability Retirement Evaluation Report" to LACERA management for review. The evaluation report includes the Disability Retirement Specialist's decision as to whether or not the applicant is permanently disabled from the performance of the applicant's work and whether the disability is work related. If approved by the Disability Retirement Specialist's Division Manager, the evaluation report is submitted to the Retirement Board.

Due to privacy considerations, all SCDR applications are heard in closed session by the Retirement Board. The applicant's attorney can attend, but not provide testimony. The LACERA medical director also attends the hearing. Applicants are notified in writing of the Retirement Board's decision, and provided information regarding the appeals administrative hearing process.

The Code of Civil Procedures Section 1094.6 has been adopted and applied to judicial review of any decision of the Retirement Board or LACERA.

### **COUNTY COST TO FUND SERVICE CONNECTED DISABILITY RETIREMENT**

The monthly allowance for SCDR begins from date of application, but not earlier than the day following the last day of regular compensation. **The SCDR allowance is equal to the greater of either 50% of the disability retiree's final (regular) compensation, or, if the retiree is eligible to retire, the retiree's annual service pension benefit allowance.**

After a SCDR is accepted by LACERA, the County must fund the increased cost between the employee's 50% SCDR benefit and the employee's earned service pension benefit (based on age and service). The County must also pay the difference between the 100% SCDR survivor benefit and the 65% non-service connected disability retirement survivor benefit.

Under current California law, no off-set exists between SCDR payments and payments provided under the County's workers' compensation system; an employee receiving SCDR payments may also receive workers' compensation payments. Employees receiving SCDR payments are not entitled to California Labor Code Section 4850 payments.

County of Los Angeles Disability Retirements* Valued as of December 31, 2004			
Recipient Type	Number of Recipients	Monthly Expense	Annual Expense
Retirees			
SCDR	7,892	\$27,207,146	\$326,485,752
Non-SCDR	1,017	\$1,548,828	\$18,585,936
Survivors	2,619	\$4,874,957	\$58,499,485
Total	11,528	\$33,630,931	\$403,571,172

\* Provided by LACERA

### **SCDR EVALUATION PROCESS**

Effective December 31, 2004, LACERA reported that 7,892 County retirees receive County SCDR benefits. Given such a large number, the CAO and Auditor will implement a two step process to identify whether fraud or abuse exists in the County SCDRs:

Step One: The CAO and Auditor will conduct an initial evaluation of County SCDR applications approved in 2004. This step will enable the evaluators to ascertain:

- whether or not LACERA's current County SCDR application procedures were followed;
- whether or not indicators of SCDR fraud or abuse exist; and,
- to review SCDRs from the Sheriff Department, Fire District, Department of Probation, Office of Public Safety, and District Attorney.

The initial evaluation will be expanded to also include a review of the corresponding County workers' compensation claim(s) leading to the LACERA's acceptance of the SCDR application. This component of the evaluation will include the type and cause of the workers' compensation claim(s), workers' compensation claim payments currently issued to the SCDR recipient, total payments to SCDR recipient post retirement, and total value of the workers' compensation award.

Step Two: After the initial evaluation is completed, a summary report to the Board shall include findings, resulting recommendations, and the CAO and Auditor's recommendation on how to proceed.

#### Initial Evaluation Process

The initial evaluation will concentrate upon County SCDRs approved by LACERA in 2004. Doing so offers four advantages:

1. 2004 SCDR applicant files are the most readily accessible.
2. LACERA staff involved in the County SCDR application process will be most familiar with the 2004 applications.
3. The 2004 applications were processed by LACERA utilizing policies and procedures that were recently modified by LACERA based upon recommendations by KPMG. KPMG conducted a review of LACERA disability applications in December 2001.
4. The evaluation of LACERA's 2004 applications would afford LACERA the time required to establish regularly scheduled audits; for example, scheduling an independent audit of its disability application process once every three years.

Thirty-five County SCDR cases will be evaluated. Number of cases to be evaluated by County departments are:

<u>County Entity</u>	<u>Number to be Evaluated</u>
Sheriff Department	11
Fire District	11
Department of Probation	5
Office of Public Safety	5
District Attorney	3
Total	<hr/> 35

The CAO and Auditor concur that the services of outside expert(s) will be necessary to complete the evaluation. The Evaluation Agreement(s) with the selected expert(s) and the evaluation's funding will be arranged under the Auditor's master agreement, or the CAO's contract authority.

County Counsel (Counsel) and LACERA Counsel will write confidentiality agreements to be executed by the project's expert(s).

Counsel and LACERA Counsel shall also write an agreement between the County and LACERA authorizing the project's expert(s) access to LACERA files, documents and data. Such an agreement would include an indemnity of LACERA by the County.

#### Scope of Work

SCDR expert(s) will/shall:

1. Evaluate LACERA's disability application policies and procedures utilized to identify potential disability application fraud or abuse.
2. Evaluate 35 County SCDRs that were accepted by LACERA in 2004. Specific case evaluations will focus upon LACERA's investigatory policies and procedures. Specifically, an evaluation will be made to determine if LACERA's policies and procedures were followed in each SCDR application.
3. Provide CAO, Auditor and LACERA a report summarizing expert(s)' evaluation including, but not limited to, deficiencies and recommendations for improvement in LACERA's processes or results, and the County's approach to SCDRs.

#### Initial Evaluation Timeline

- By February 4, 2005, CAO, Auditor, Counsel and LACERA staff responsible for the project will be selected.
- By February 18, 2005, identify specific County SCDR cases to be evaluated.
- By February 25, 2005, evaluation's scope of work is finalized.
- By March 4, 2005, Counsel and LACERA Counsel write required expert confidentiality agreement and LACERA access agreement.
- By March 11, 2005, evaluation expert(s) is/are selected.
- By March 18, 2005, evaluation's funding is calculated and arranged.
- By March 25, 2005, Evaluation Agreement documents are executed.
- By March 28, 2005, begin evaluation.

Each Supervisor  
January 31, 2005  
Page 7

- By June 1, 2005, CAO and Auditor receive the evaluation's first draft.
- By June 30, 2005, Counsel completes a report summarizing primary California law and significant California case law pertaining to County SCDR.
- By June 30, 2005, CAO and Auditor shall provide the Board with the initial evaluation's results and CAO and Auditor's recommendations.

If you have any questions regarding this report, please call either of us, or Rocky Armfield, County Risk Manager, at (213) 351-5346.

DEJ:SHR  
RAA:mtm

**Attachment**

c: County Counsel  
Los Angeles County Employees Retirement Association

**COUNTY OF LOS ANGELES  
DISABILITY RETIREMENTS  
JANUARY 2005**

The following is data and information provided by the Los Angeles County Employees Retirement Association (LACERA) pertinent to the County of Los Angeles (County) disability retirements.

**COUNTY COST TO FUND SERVICE CONNECTED DISABILITY RETIREMENTS**

The following Tables (1 through 6) were developed from data valued as of December 31, 2004.

Tables 1 through 3 provide:

- the number of total County disability retirees and related expense by type of retirement plan;
- breakdown of County disability retiree recipients and expense between SCDRs and non-SCDRs; and,
- breakdown of SCDRs and non-SCDRs based upon the County disability retiree receiving either a total earned pension benefit (Table 1), or a 50% of final compensation pension benefit (Table 2).

Table 1 applies to County disability retirees receiving disability retirement payments based upon a disability retiree's total earned pension benefit (basic retirement based on age and service).

<b>Table 1</b>  <b>Disability Retirees</b> <b>Total Earned Pension Retirements</b> <b>December 31, 2004</b>				
<b>RETIREMENT PLAN</b>	<b>NONSERVICE CONNECTED DISABILITY RETIREMENT</b>		<b>SERVICE CONNECTED DISABILITY RETIREMENT</b>	
	Monthly Gross Amount	Recipient Count	Monthly Gross Amount	Recipient Count
Plan A/General	\$182,248.98	60	\$1,505,218.31	457
Plan A/Safety	\$122,040.61	20	\$10,922,423.54	1,731
Plan B/General	\$1,701.49	1	\$29,257.83	11
Plan B/Safety	\$4,238.64	2	\$2,251,327.76	752
Plan C/General	\$1,746.85	1	\$27,172.80	13
Plan D/General	\$11,922.14	4	\$870,058.05	343
<b>Total</b>	<b>\$323,898.71</b>	<b>88</b>	<b>\$15,604,458.29</b>	<b>3,307</b>

Table 2 applies to County disability retirees receiving disability retirement payments based upon 50% of a retiree's final compensation.

<b>Table 2</b> <b>Disability Retirees</b> <b>50% Final Compensation Retirements</b> <b>December 31, 2004</b>				
RETIREMENT PLAN	NONSERVICE CONNECTED DISABILITY RETIREMENT		SERVICE CONNECTED DISABILITY RETIREMENT	
	Monthly Gross Amount	Recipient Count	Monthly Gross Amount	Recipient Count
Plan A/General	\$125,917.41	87	\$276,904.66	125
Plan A/Safety	\$3,106.67	2	\$272,460.55	67
Plan B/General	\$31,720.92	5	\$18,282.17	12
Plan B/Safety	\$59,786.73	34	\$309,514.01	110
Plan C/General	\$9,479.76	8	\$14,767.79	7
Plan D/General	\$250,253.84	202	\$496,768.04	237
Total	\$480,265.29	338	\$1,388,697.22	558

Table 3 applies to County retirees receiving disability benefits that LACERA is currently identifying as applying to either Table 1 or Table 2 above.

<b>Table 3</b> <b>Disability Retirees</b> <b>Other Retirements</b> <b>December 31, 2004</b>				
RETIREMENT PLAN	NONSERVICE CONNECTED DISABILITY RETIREMENT		SERVICE CONNECTED DISABILITY RETIREMENT	
	Monthly Gross Amount	Recipient Count	Monthly Gross Amount	Recipient Count
Plan A/General	\$561,116.04	482	\$3,047,923.90	1,673
Plan A/Safety	\$146,946.75	67	\$6,586,661.68	2,013
Plan B/General	\$4,034.30	7	\$43,475.20	33
Plan B/Safety	\$11,439.02	8	\$321,058.50	160
Plan C/General	\$2,076.78	4	\$34,290.88	26
Plan D/General	\$19,060.87	23	\$179,580.42	122
Total	\$744,673.76	591	\$10,212,990.58	4,027

Grand Total Retiree Tables 1, 2, 3	\$1,548,827.80	1,017	\$27,207,146.09	7,892
------------------------------------	----------------	-------	-----------------	-------

Tables 4 through 6 provide surviving spouse information.

Table 4 applies to survivors of County disability retirees that earned disability retirement payments based upon the retiree's total earned pension benefit.

<b>Table 4</b> <b>Disability Retiree Survivors</b> <b>Total Earned Pension Retirements</b> <b>December 31, 2004</b>				
RETIREMENT PLAN	NONSERVICE-CONNECTED DISABILITY RETIREMENT		SERVICE-CONNECTED DISABILITY RETIREMENT	
	Monthly Gross Amount	Recipient Count	Monthly Gross Amount	Recipient Count
Plan A/General	\$213,701.22	85	\$117,808.89	34
Plan A/Safety	\$39,980.15	15	\$402,777.54	71
Plan B/General	\$1,271.75	1	\$2,582.36	1
Plan B/Safety	\$7,065.66	3	\$75,890.99	27
Plan C/General	0	0	\$3,312.02	1
Plan D/General	\$5,343.39	4	\$17,444.27	11
Total	\$267,362.17	108	\$619,816.07	145

Table 5 applies to survivors of County disability retirees that earned disability retirement pensions based upon 50% of the retiree's final compensation.

<b>Table 5</b> <b>Disability Retiree Survivors</b> <b>50% Final Compensation Retirements</b> <b>December 31, 2004</b>				
RETIREMENT PLAN	NONSERVICE CONNECTED DISABILITY RETIREMENT		SERVICE CONNECTED DISABILITY RETIREMENT	
	Monthly Gross Amount	Recipient Count	Monthly Gross Amount	Recipient Count
Plan A/Safety	\$26,124.56	15	\$92,169.96	28
Plan B/General	\$3,577.01	4	0	0
Plan B/Safety	\$20,302.98	18	\$17,983.37	7
Plan C/General	\$5,691.57	6	0	0
Plan D/General	\$110,729.42	147	\$31,238.69	20
Total	\$166,425.54	190	\$141,392.02	55

Table 6 applies to survivors of County disability retirees that LACERA is currently identifying as applying to either Table 4 or Table 5 above.

<b>Table 6</b> <b>Disability Retiree Survivor</b> <b>Other Retirements</b> <b>December 31, 2004</b>				
<b>RETIREMENT PLAN</b>	<b>NONSERVICE CONNECTED DISABILITY RETIREMENT</b>		<b>SERVICE CONNECTED DISABILITY RETIREMENT</b>	
	Monthly Gross Amount	Recipient Count	Monthly Gross Amount	Recipient Count
Plan A/General	\$736,889.88	810	\$946,786.30	462
Plan A/Safety	\$128,998.86	105	\$1,597,133.59	519
Plan B/General	\$1,178.64	3	\$3,791.37	1
Plan B/Safety	\$3,736.05	5	\$13,697.96	8
Plan C/General	\$2,456.37	6	\$883.86	1
Plan D/General	\$9,725.81	18	\$24,310.75	17
Plan A/G	\$143,198.72	143	\$67,173.20	23
Total	\$1,026,184.33	1,090	\$2,653,777.03	1,031
Grand Total Survivor Tables 4, 5, 6	\$1,459,972.04	1,388	\$3,414,985.12	1,231

**LOS ANGELES COUNTY EMPLOYEES' RETIREMENT ASSOCIATION 2004 ANNUAL REPORT**

Table 7 and 8 were developed from retirement data contained in the *Los Angeles County Employees Retirement Association, 2004 Annual Report*.

Data current as of June 30, 2004.

Non-safety retirements are listed as "General."

Non-disability retirements are listed as "Service."

<b>Table 7</b>				
<b>LACERA Retirements by Type</b>				
<b>Type</b>	<b>FY 2003-04</b>	<b>FY 2002-03</b>	<b>FY 2001-02</b>	<b>FY 2000-01</b>
<b>Disability</b>				
General	4,011	4,048	4,087	4,119
<b>Safety</b>	<u><b>4,885</b></u>	<u><b>4,716</b></u>	<u><b>4,556</b></u>	<u><b>4,367</b></u>
Total	8,896	8,764	8,643	8,486
<b>Service</b>				
General	29,657	28,583	27,939	27,456
<b>Safety</b>	<u><b>3,071</b></u>	<u><b>2,979</b></u>	<u><b>2,830</b></u>	<u><b>2,755</b></u>
Total	32,728	31,562	30,769	30,211
<b>Survivors</b>				
General	5,666	5,652	5,600	5,502
<b>Safety</b>	<u><b>1,305</b></u>	<u><b>1,254</b></u>	<u><b>1,230</b></u>	<u><b>1,197</b></u>
Total	6,971	6,906	6,830	6,699
<b>Total Retirements</b>				
General	39,334	38,283	37,626	37,077
<b>Safety</b>	<u><b>9,261</b></u>	<u><b>8,949</b></u>	<u><b>8,616</b></u>	<u><b>8,319</b></u>
Total	48,595	47,232	46,242	45,396

Data indicate that during the period of FY 2000-01 through FY 2003-04, the number of safety disability retirements increased at a 3.8% annual rate, while the number of County general disability retirements decreased.

<b>Table 8</b>				
<b>Retirement Expenses by Type</b> (Dollars in Thousands)				
<b>Type</b>	<b>FY 2003-04</b>	<b>FY 2002-03</b>	<b>FY 2001-02</b>	<b>FY 2000-01</b>
<b>Disability Retiree Expense</b>				
General	\$ 117,964	\$ 115,090	\$ 116,791	\$ 111,707
Safety	<u>262,436</u>	<u>242,108</u>	<u>212,433</u>	<u>193,554</u>
Total	\$ 380,400	\$ 357,198	\$ 329,224	\$ 305,261
<b>Service Retiree Expense</b>				
General	\$ 867,715	\$ 802,308	\$ 751,892	\$ 702,400
Safety	<u>178,829</u>	<u>161,269</u>	<u>141,541</u>	<u>128,635</u>
Total	\$1,046,544	\$ 963,577	\$ 893,433	\$ 831,035
<b>Total Retiree Expense</b>				
General	\$ 985,679	\$ 917,398	\$ 868,683	\$ 814,107
Safety	<u>441,265</u>	<u>403,377</u>	<u>353,974</u>	<u>322,189</u>
Total	\$ 1,426,944	\$ 1,320,775	\$ 1,222,657	\$ 1,136,296

Data indicate that during the period of FY 2000-01 through 2003-04, the annual expense for safety disability retirements increased at a 10.7% annual rate while the annual County general disability retiree expense increased by 1.8% a year.